

## CIVIL DOCKET

## UNITED STATES DISTRICT COURT

Jury demand date:

D. C. Form No. 106A Rev.

## TITLE OF CASE

## ATTORNEYS

RAYMOND (BILL) McCLURE

v.

~~CITATION MANUFACTURING CO., INC.~~~~and EVERETT WEBSTER, d/b/a~~~~WEBSTER'S AUTO SUPPLY~~~~WEBSTER AUTO SUPPLY, INC., a Kansas~~~~Corporation and M.L. CLEMENT, d/b/a~~~~M.L. CLEMENT SALES and SERVICE~~

v.

~~BROWN STRAUSS COMPANY, A DIVISION OF  
AZCON CORPORATION, A CORPORATION, &  
SOUTHWEST STEEL SUPPLY COMPANY, A CORPORA-  
TION.~~

Third-Party Defts.

David L. Sobel (749-8891)(M. L. Clement  
4143 East 31st Street d/b/a M. L. Clement  
Tulsa, Oklahoma 74135 Sales & Service)~~Dan Rogers (Southwest Steel Supply Co.)~~~~117 E. 5th St.~~~~Tulsa, OK 74103 583-5111~~~~Wm. S. Hall (Brown-Strauss Co.)~~~~816 Enterprise Bldg.~~~~Tulsa, OK 74103-~~~~583-7129~~

For plaintiff:

Jack L. Rorschach  
217 S. Wilson Bldg.  
Vinita, Oklahoma 74301  
918 AL-63660

and

Arthur E. Rubin & Michael R. Ford  
Gable, Gotwals, Rubin, Fox etc.  
2010 4th National Bank Bldg.  
Tulsa, Oklahoma 74119  
918 582-9201

For defendant:

~~John R. Richards (Citation Manufactur.)~~  
~~Griff & Richards~~  
~~6 East Fifth Thursten Bldg~~  
Tulsa, OK 74103~~Shaw & Ledbetter (Citation Manufact.)~~  
~~P. O. Box 185~~  
Fort Smith, Arkansas 72901~~Richard D. Gibbon (Webster)~~  
~~Covington, Gibbon & Poe~~  
~~Pythian Bldg.~~  
Tulsa, OKFRANK W. BOOTH (M.L. Clement)  
241 Central Mall, Ft. Smith, Ark. 72901

## STATISTICAL RECORD

## COSTS

## DATE

NAME OR  
RECEIPT NO.

## REC.

## DISB.

J.S. 5 mailed 10-1-74

Clerk

9/20 Rubin  
9-26-74 C/D #15

1500

15 00

J.S. 6 mailed 11-1-75

Marshal

Basis of Action: Pers. Inj.  
due to defective  
product.

Docket fee

Witness fees

Action arose at:

Depositions

DATE	PROCEEDINGS	Date Order or Judgment Noted
9-20-74	1. COMPLAINT filed, SUMMONS issued.jj	
9-20-74	2. REQUESTS for Admissions, to Everett Webster, pursuant to Fed. Rule of Civil Procedure 36, filed.jj	
9-20-74	3. INTERROGATORIES directed to Everett Webster, filed.jj	
9-20-74	4. REQUESTS for Admissions, to Citation Mfg.Co. pursuant to Fed. Rules of Civil Procedure 36.jj	
9-20-74	5. INTERROGATORIES directed to Citation Mfg. Co.filed.jj	
10-29-74	Return on U.S. Marshals service, complaint, requests for Adm., inter., & summons, filed. Served Sec. of State, St. of OK (Citation Manufacturing Co., Inc.) at Oklahoma City, OK, on 9-23-74 w/ fees of \$12.72; served Everett Webster, d/b/a Webster's Auto Supply at Chetopa, Kansas, on 10-21-74 w/ fees of \$58.56. k	
10-30-74	6. Application & Order granting time until 11-8-74 for Deft. Citation to plead or answer, filed.k	
10-30-74	7. Responses to Citation to requests for admissions, filed.k	
10-31-74	8. Answer, filed by Citation Manufacturing Co., Inc. k	
11-6-74	9. Appl. of Deft. Everett Webster for 30 days from original ans. date to answer, filed.k	
11-6-74	10. Order, filed, granting Webster until 12-10-74 to ans. (JCS-clk) <i>api mld</i>	
11-15-74	11. Answers to Interrogatories propounded to separate Deft. Citation Mfg. Co., Inc., filed.,b	
12-18-74	12. Mot. of pltf. for leave to file 1st Amended Compl. & Mot. to Make an additional party defendant, filed.k <i>0 to 5</i>	
12-20-74	13. Order, filed, granting pltf's Mtn. for leave to file 1st Amended Compl. and Mtn. to Make addtl. party deft. (AEB-J)jj copies mailde.	
12-20-74	14. First Amended Complaint, filed.jj	
12-20-74	15. Requests for Admissions/ Purs. to FRCP 36 to M. L. Clement, filed.jj	
12-20-74	16. Interrogatories, to M. L. Clement, filed.jj	
12-20-74r	17. Requests for Admissions, to Webster Auto Supply, Inc., Pursuant to FRCP 36, filed.jj	
12-20-74	18. Interrogatories to Webster Auto Supply, inc., filed.jj	
1-2-75	19. Ltr. from Arthur E. Rubin to Webster Auto Supply, Inc. re service of summons, filed. lm	
1-13-75	20. <u>Answer</u> of def., Citation, to first amended complaint, filed. rm	

DATE	PROCEEDINGS	Date Order or Judgment Noted
1-16-75	Summons, ret. & filed: served Secy of State, Ok. City, 1-8-75; served L. L. Callaway Service Agt. for Webster Auto Supply, Inc., Ok. City, 12-23-75; M. L. Clement, Van Buren, Ark., 1-7-75. (USM \$45.76)g	
1-21-75	21. Pltf. first request to produce, filed. rm	
1-21-75	22. Motion of pltf. to strike affirmative defenses, w/brief as part thereof, filed. rm	
1-21-75	MO: Ordered by the Court that defs. are granted 10 days in which to respond to mo/strike of pltf., w/brief, if opposed. (AEB-J)rm	
1-23-75	23. Answer of M. L. Clement and Cross-Claim against deft. Citation Mfg. Co., Inc., filed. lm	
1-27-75	24. Objections to Pltf's Request for Admission of Facts & Interrogatories, filed by Deft. M. L. Clement. Brief in support is attached. v	
1-27-75	25. Answer of Webster Auto Supply, Inc., and cross-complaint over and against defts. M. L. Clement, d/b/a M. L. Clement Sales & Service, and the Citation Manufacturing Co., Inc., filed.k	
1-30-75	26. Deft. Citation Mfg. Co., Response to Pltf's First Request to Produce, filed. b	
1-30-75	27. Deft. Citation Mfg. Co., Inc.'s ANSWER to Cross-claim of the Deft. M. L. Clement, filed. b	
1-30-75	28. ANSWER of Deft., Citation Mfg. Co., Inc., to the Cross-Complaint of Deft., Webster Auto Supply, Inc., filed. b	
1-31-75	29. Motion of Pltf. for Order Compelling Answer to Pltf.'s Interrogatories & Request for Admissions, filed. v	
1-31-75	30. Pltf.'s Ans. Brief to the Objections of Deft., M. L. Clement, d/b/a M. L. Clement Sales & Service to Pltf.'s Request for Admission of Facts & Interrogatories, filed. v	
1-31-75	MO: It is ordered by the Court that Defts. are granted 10 days from this date to respond to Pltf.'s Mot. for Order Compelling Ans. to Pltf.'s Interrogatories & Request for Admissions. (AEB-J)v -ltr. mld. this date.	
2-3-75	MO: Pursuant to the letter received and dated 1-29-75, from John R. Richards, one of the attys. for deft., Citation Manuf. Co., wherein he states that the Motion to Strike Affirmative Defenses filed by pltf. is well taken & requesting the Court to enter an order striking such affirmative defenses, IT IS, THEREFORE, ORDERED that pltf's mot. to strike affirmative defenses filed by pltf. herein on 1-21-75 is sustained & said defenses ordered stricken. (AEB-J)k cps mld	
2-4-75	MO: It is hereby ordered by the Court that Pltf's mot. for Order compelling ans. to interrog. & request for admissions is referred to Magistrate Bradford for Findings & Recommendations. (AEB-J)k	
2-7-75	31. Deft. M. L. Clement's response to mot. for order compelling ans. to pltf's interrog. & request for admissions, filed.k 40.mld.B	

DATE	PROCEEDINGS	Date Order or Judgment Noted
2-7-75	32. Memorandum brief in support of response to mot. for order compelling ans. to pltf's interrog. & request for admissions, filed by deft. M. L. Clement. k <i>to mld</i>	
2-7-75	33. Ans. of deft. M. L. Clement to cross-compl. of deft. Webster Auto Supply, filed.k <i>to mld</i>	
2-12-75	34. ANSWERS of deft, Webster Auto Supply, Inc., to requests for admissions, filed. lm	
2-12-75	35. ANSWERS TO INTERROG. by deft, Webster Auto Supply, Inc., filed.lm	
2-14-75	36. FINDINGS and Recommendation of Magistrate, filed.jj 0 to J	
2-20-75	MO: Ordered by the Court that defendant, M. L. Clement, file objections to the Findings and Recommendations of Magistrate within 10 days of this date.(AEB-J)jj of Deft. Webster Auto Supply	
2-21-75	37. ANSWERS/to Requests for Admissions, filed.jj	
2-24-75	38. ORDER, filed, approving Magistrates recommendations, and granting pltf's mot. for order compelling answer to Interrogs, and directing deft. M. L. Clement to fully respond to said Interrogs and Req. for Adms. on or before 3-3-75. (AEB-J)g <i>mailed</i>	
2-24-75	39. Letter request from counsel for def. Clement, requesting waiver of local rule 5(h) re local counsel pending determination of jurisdiction question, filed. rm <i>Coping with mld</i>	
2-26-75	40. Deft. Clement's Objections to findings and recommendations of Magistrate, filed. g	
3-13-75	41. Amended answers to interrog. propounded to separate deft., Citation Manufacturing Co., Inc., filed. hm	
3-14-75	42. Motion of counsel for deft. M. L. Clement for temporary waiver of Local Rule 5(h), filed. g of Deft.	
3-18-75	43. MOTION/for Summary Judgment, filed.jj	
3-18-75	44. MEMO BRIEF in Support of Mtn. for S/J, filed.jj	
3-18-75	45. AFFIDAVIT in Support of Deft's, Clement, Mtn. for S/J, filed.jj	
3-18-75	MO: It is Ordered by the Court that plaintiff is granted 10 days from this date to respond to deft's Mtn. for S/J (AEB-J)jj	
3-19-75	46. Order, filed, overruling mot. for temporary waiver of local rule 5(h). (AEB-J)k cps mld	
3-19-75	47. Order, filed, overruling objections to F & R of Magistrate filed by deft. M. L. Clement, and ordered that deft. Clement comply w/ the order of this Court previously entered within 10 days. (AEB-J)k cps mld	
3-20-75	48. Mot. of Deft. Citation Manuf. Co., INC., to Bring in 3rd Party Defts. with exhibits and brief in support attached, filed. v	

DATE	PROCEEDINGS	Date Order or Judgment Noted
3-21-75	MO: ORDERED BY THE COURT that Pltf. is granted 10 days from this date to respond to the Mot. of Deft. Citation Manuf. Co., Inc., to Bring in 3rd Party Defts. (AEB-J)v -copies mailed.	
3-25-75	49. NOTICE of Compliance with Pltf's 1st Request to Prod., filed.jj	
3-26-75	50. Response of M. L. Clement to requests for admissions, filed. g	
3-26-75	51. Response (letter) of pltf. to mot. to bring in 3rd party defts., filed. g	
3-26-75	52. Order, filed, granting mot. of deft. Citation Mfg. Co. to bring in third-party defendants. (AEB-J)g	
3-28-75	53. Response to Interrogatories Propounded by Pltf. on the Deft., M. L. Clement, filed.jj	
3-28-75	54. Pltf's Ans. Brief to Mtn. for S/J of Deft. Clement., filed.jj	
4-2-75	55. NOTICE to Parties of Filing of Third-Party Complaint, filed. mm	
4-2-75	56. Third-Party Complaint of Citation Mfg. Co., Inc., filed. mm	
4-4-75	57. ORDER overruling the motion for S/J filed by Deft. M.L. Clement, filed.(AEB-J)b <i>cpa mld</i>	
4-14-75	U.S. Marshal's service ret. & filed. Executed by serving Mr. Green, Pres. of Southwest Steel supply Co., Inc., St. Louis Mo. on 4-8-75.(USM \$4.20) b	
4-14-75	U.S. Marshal's service ret. & filed. Executed by serving E. Winston, Treas. on 4-7-75.(USM \$4.96) b	
4-21-75	58. Answer of Brown-Strauss Co. to third party compl. of Citation, filed.k	
4-21-75	59. Cross-claim of Brown-Strauss Co. against Southwest Steel Supply, third-party deft., filed.k	
4-25-75	60. Appl. for Ext. of Time to ans. 3rd Pty Complaint, filed.jj 0 to J	
4-29-75	61. Order, filed, granting third party deft. Southwest Steel Supply Co. til 5-25-75 to answer third party complaint of Citation Mfg. Inc. (AEB-J)k <i>cps mld</i>	
5-2-75	62. Requests for admissions, pursuant to Fed. Rule of Civil Procedure 36, filed. hm	
5-2-75	63. Second set of interrogatories, filed. hm	
5-21-75	MO: Case referred to Mag. Bradford for hrg/rec re pending mots. (AEB-J)k	
5-28-75	64. <u>ANSWER</u> of Southwest Steel to 3rd party complaint of Citation, filed. rm	
6-3-75	65. APPLICATION FOR ENLARGEMENT OF TIME TO ANSWER PLAINTIFF'S SECOND INTERROGATORIES AND PLF'S SECOND REQUEST FOR ADMISSIONS, FILED. MM	

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DATE	PROCEEDINGS	Date Order or Judgment Note
6-6-75	66. Order, filed, granting deft. and third-party pltf., Citation Mfg. Co. Inc. until 6-20-75 to answer second set of interrogs and req. for adm. (AEB-J)g cpies mailed.	
6-9-75	67. Notice to take oral depositions of John Crosby/in Little Rock, Ark., filed. v and W.W. Ferguson	
6-9-75	68. Notice to take oral depositions of Jerry Alexander in Siloam Springs, Ark.; Virgil Alexander and Denton Beane and Chuck Herron will also be deposed, filed. v	
6-9-75	69. Notice to take oral depositions of H. C. Gear, filed. v	
6-24-75	70. Deft. Citation, Answers to Second set pf interrogatories, filed. b	
6-25-75	71. Entry of Appearance of Dabid L. Sobel counsel for M. L. Clement d/b/a M. L. Clement Sales & Service, filed. mm	
6-27-75	72. Defendant, Citation Manufacturing Co., Inc., Answers to Request for Admissions, Pursuant to Federal Rule of Civil Procedure 36, filed. mm	
7-10-75	73. Notice to take deps. of John Crosby and W. W. Ferguson on 7-14-75, Little Rock, Ark. by pltf., filed. g	
7-10-75	74. Notice to take deps. of Jerry Alexander, Virgil Alexander, Denton Beane and Chuck Herron at Siloam Springs, Ark. by pltf, filed. g	
7-10-75	75. Notice to take dep. of H. C. Gear at Dallas, Texas on 7-16-75 by pltf., filed. g	
7-11-75	76. Stipulation for Dismissal of 3rd-pty actions of Citation Mfg. Co., inc. against 3rd pty defts, Brown-Strauss Co. and Southwest Steel Supply Co., filed. lm (o to J --attached) and entered	
7-15-75	Order (part of stip.), filed, dismissing Third -Party action of Citation Mfg. Co. against Brown-Strauss Co., a div. of Azcon Corp. and against Southwest Steel Supply Co, both 3rd party defts., and each counter-claim and each cross-claim involved between said parties are dismissed without prejudice, each party to bear its own costs. (AEB-J)g <i>mailed</i>	
7-30-75	77. Stipulation for a Physical Examination, filed.jj 0 as part of orig. to J	
8-1-75	Order approving Stipulation for Physical Examination, filed.(AEB-J)b <i>part of stip.</i>	
8-19-75	78. Pltf's motion for leave to file second amended complaint, filed.k	
8-20-75	MO: It is ordered by the Court that defts. are granted 10 days to respond to pltf's mot. for leave to file 2nd amended compl. (AEB-J)k	
8-25-75	MO: Case referred to Mag. Bradford for F&R re pending mots. (AEB-J)k	
9-2-75	79. Response and Brief of Defendant, Citation Manufacturing Co., Inc. to Plaintiff's Motion for Leave to Filed 2nd Amended Complaint, filed. mm	

## CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. <u>74-C-374</u>
			PAGE <u>7</u> OF <u>    </u> PAGES
DATE	NR.	PROCEEDINGS	
9-2-75	80.	Letter dated 8-29-75 from David L. Sobel to Judge Allen E. Barrow stating that as counsel for M. L. Clement d/b/a M. L. Clement Sales & Service, he has no objections to plaintiff's motion for leave to file 2nd amended complaint, filed. mm	
9-30-75	81.	Joint Application & Brief of Pltf. & the Defts., Webster Auto Supply Inc. & Citation Manufacturing Co., Inc. for Order of Dismissal W/ Prejudice, filed. mm ( O to J )	
9-30-75	82.	Order of Dismissal of Claims of the Pltf. & the Defts., Webster Auto Supply, Inc. & Citation Manufacturing Co., Inc., filed. (AEB-J) cps mld mm	
10-1-75	MO:	It is ordered by the Court that case is set for hearing on attorney fees of David L. Sobel on 10-15-75, at 10:00 A.M. (AEB-J)b nts to Sobel, Richards & Booth	
10-15-75		Case called for hearing on attorney fees of David Sobel. Mr. Sobel & John Richards present. Mr. Richards objects to atty. fees. Court allows fees for Mr. Sobel in amt. of \$250.00. Mr. Sobel to prepare order in 5 days. Mr. Booth denied any claim for atty. fees. Deft. Citation to pay atty. fee. Cross-claim of Clement is dismissed w/prejudice. Mr. Sobel objects to dismissal of cross-claim w/prejudice. (AEB-J)b	
10-30	83	Order, filed & entered, that David L. Sobel have judgment against deft. Citation Manufacturing Co. Inc. in sum of \$250.00 as atty fee, and that request of Frank W. Booth for an atty. fee is denied; that deft. M. L. Clement d/b/a M. L. Clement Sales and Service's cross-claim against deft. Citation Mfg. Co. Inc. is hereby dismissed with prejudice; each party granted an objection to each adverse tuling of the Court. (AEB-J)g cpies mailed.	
11-7	84	Satisfaction of Judgment in Favor of David L. Sobel, filed.jj	

## CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF	DEFENDANT	DOCKET NO. _____ PAGE ____ OF ____ PAGES
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DATE	NR.	PROCEEDINGS
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